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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,732	02/19/2002	Aleks D. Nikolich	Case 1	3469

7590

05/17/2004

Paul H. Gallagher  
2439 Jackson Ave  
Evanston, IL 60201

EXAMINER

CRAWFORD, GENE O

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/077,732

Applicant(s)

NIKOLICH, ALEKS D.

Examiner

Gene O. Crawford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-17 and 20-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-17 and 32-41 is/are allowed.
- 6) ☒ Claim(s) 9-11, 20-22, 24, 25 and 27-31 is/are rejected.
- 7) ☒ Claim(s) 12, 23 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 19 is objected to because of the following informalities: the claim is dependent from cancelled claim 7. Appropriate correction is required.
2. Claim 20 is objected to because of the following informalities: the claim consists of two sentences; applicant is reminded that each claim should consist of only one sentence. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Regarding claim 27, the word "means" is preceded by the words "the support cart having push buttons corresponding to articles in the storage bin respectively, and" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the words preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-11, 20-22, 24, 25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipps ('455) in view of Arnold et al.

Lipps discloses an apparatus for use in distributing a plurality of articles of different kinds throughout a facility that has a central storage area that includes: **(claims 20, 22)** a central storage area (column 6, lines 9-10), a supply cart 87 adjacent to a user area and having supply bins 22 and a plurality of shelves 20 for receiving and holding the articles, the supply cart 87 having labels 45 individually identifying articles in the supply bins 22 (column 3, lines 55-60), supplemental panels 36 having push buttons 42 operably associated with the storage bins 22 and each of the shelves 20 and the panels 36 being separate from the shelves and detachably mounted thereon (column 3, lines 24-31), and a computer for registering signals from the push buttons 42 (column 8, lines 3-6); **(claim 24, 25)** the supply cart 87 capable of having a second set of panels housed in an adjacent column 18 with push buttons 42 corresponding to the main set as broadly claimed; **(claim 21)** a computer 90 operably associated with each supply cart 87 and operable in response to actuation of the push buttons 42 in a respective supplemental panel for recording the withdrawing of articles from the supply cart 87 (column 8, lines 1-10); **(claim 9)** the computer capable of receiving signals from the carts 87 and identifying the carts and registering the number of articles in each bin in the cart (column 8, lines 1-10); **(claim 10)** the apparatus including a system computer and server computer 90, the cart computer being capable of transmitting signals to the server computer (column 8, lines 1-10); **(claim 11)** including a printer and the server 90

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being operable to transfer signals to other hospital computer systems (figure 13 and column 8, lines 1-18; and **(claim 31)** the computer including an auxiliary keyboard (figures 7 and 8).

Lipps discloses a central storage area (column 6, lines 5-10) but does not disclose a storage cart in the storage area having a plurality of bins for holding a corresponding number of articles. However Arnold et al. discloses an apparatus for use in distributing a plurality of articles of different kinds throughout a facility including the broad teaching of providing a storage area having a storage cart 14 having labels 105 individually identifying articles in the storage bins. It would have been obvious to one of ordinary skill in the art to provide the storage area of Arnold et al. with a storage cart having labels to facilitate the storage of extra supplies such requiring the mere choice of an art recognized configuration for storing articles in an auxiliary location as taught by Arnold et al.

Lipps discloses the supply cart 87 has controlled access in the form of locks on the doors. The recitation of an "open supply cart" appears to be an obvious design choice and expedient in view that it requires the mere removal of the locking mechanisms of the prior art. It would have been obvious to one of ordinary skill in the art to provide the supply cart be an open supply cart if one so skilled desired not to have the security protections disclosed by Lipps.

7. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipps in view of Arnold et al. as applied to claims 20 and 21 above, and further in view of Broadfield et al.

With regard to claims 28-30, Lipps in view of Arnold et al. includes all the claimed features but does not disclose the computer having a bar code reader, an RF identification reader or an infrared reader. However, Broadfield et al. discloses the broad teaching of providing a supply cart having an onboard computer with a bar code reader, an RF identification reader or an infrared reader (column 5, lines 14-37). It would have been obvious to one of ordinary skill in the art to provide the computer of Lipps in view of Arnold et al. include a bar code reader, an RF identification reader or an infrared reader to provide onboard intelligence to the dispensing device as taught by Broadfield et al.

***Allowable Subject Matter***

8. Claims 13-17 and 32-41 are allowed.
9. Claims 12, 23 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter: an apparatus and method for use in distributing a plurality of articles throughout a facility that has a central storage area, a storage cart and supply cart including the unique features of: (a) 'a computer means for registering a the difference in the number of articles in the storage cart and supply cart and printing a picking list based on the difference registered'; (b) 'a means for providing an alert signal in response to the presence of hazardous materials in the articles'; and (c) 'the panels of the second set

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mechanically inhibiting the actuation of the push buttons of the main set', all in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 703/305-9733. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 703/308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gene O. Crawford  
Primary Examiner  
Art Unit 3651

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